

# CHESHIRE EAST COUNCIL

## Constitution Committee

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<b>Date of Meeting:</b>	15 September 2016
<b>Report of:</b>	Director of Legal Services
<b>Subject/Title:</b>	Members' Use of the Council's Email System

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### 1.0 Report Summary

- 1.1 This report considers the existing guidance to Members on using the Council's internet and email services and, in this context, seeks to provide clarification of the phrase in the Members' Code of Conduct that 'Resources must not be used improperly for political purposes (including party political purposes)'.

### 2.0 Recommendation

- 2.1 That the Committee consider whether the clarification provided in this report should be distributed to all Members.

### 3.0 Reason for Recommendation

- 3.1 To enable the Committee to consider whether the clarification provided in this report is helpful and proportionate and should be distributed to all Members.

### 4.0 Background and Options

- 4.1 This report considers the existing guidance in the Members Code of Conduct on use of the Council's Resources and the guidance in the ICT Code of Practice for Members on using the Council's email service.
- 4.2 Paragraph 6(b) to Part A of the Council's Member Code of Conduct ('the Code of Conduct') places restrictions on use by Members of the Council's resources, as follows:

#### **A. General obligations**

*Whenever you are acting as a member or co-opted member of this authority you must act in accordance with the following obligations:*

#### **6. Honesty**

*(b) You must only use or authorise the use of the authority's resources in accordance with the authority's requirements. You must, when using or authorising the use by others of such resources, ensure that they are used for proper purposes only. **Resources must not be used improperly for political purposes (including party political purposes)** and you must*

*have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986. [Emphasis added.]*

The full version of the Code of Conduct can be found on the authority's website at:

[http://www.cheshireeast.gov.uk/council\\_and\\_democracy/your\\_council/constitution.aspx](http://www.cheshireeast.gov.uk/council_and_democracy/your_council/constitution.aspx)

- 4.3 The Code of Conduct thus prohibits using Council resources improperly for political purposes. This is thus a qualified prohibition and begs the question 'When is use for political purposes acceptable?'
- 4.4 The Council's ICT Code of Practice for Members ('the Code of Practice') provides more detailed guidance on use of the Council's email service by Councillors. The Code of Practice is based on the Council's ICT Security Policies, the Government Code of Connection requirements and ISO27001 standards for information management and security. It is split into three areas: the first providing guidance on using Council systems, the second detailed guidance on using Council equipment and the third specific direction on using non-Council equipment to access systems.

The full version of the Code of Practice can be found on the authority's website at:

<http://centranet.ourcheshire.cccusers.com/tasks/IT/Site%20documents/ICT%20code%20of%20practice%20for%20Members.pdf>

- 4.5 In the section in the Code of Practice on using Council systems, the following guidance is provided in relation to email:

#### *2.2 Email*

*Each Councillor is responsible for the context of all text, audio and images that they send, and should not contain derogatory statements, potentially libellous, defamatory, comments likely to cause offence, gossip, hoaxes, or jokes to others inside or outside the Council.*

*Be aware that data contained within email could be subject to the provisions of the Data Protection Act.*

*Automatic forwarding arrangements for any messages from the work account to one outside the authority, e.g. at home must not be set up.*

*Automatically sending Cheshire East emails to external accounts increases the risk of disclosure or interception.*

*Confidential or sensitive information sent outside of the Council network via email must be encrypted using approved methods only – Contact the ICT Service Desk for additional information.*

*Do not forward or reply to suspicious emails or chain letters, similarly do not click on attachments or web links within suspect emails. If in doubt contact the ICT Service Desk for advice.*

*Be aware that a disclaimer is included automatically in all outgoing emails stating that it was sent in confidence for the addressee only, may be legally privileged and any views expressed are not necessarily those of Council.*

*Email correspondence may be monitored inline with the ICT Security Policies.*

- 4.6 In the section in the Code of Practice on using Council equipment, the following guidance is provided in relation to email:

### **3 Guidance when using Council equipment**

#### **3.1 Use and Protection**

*Members may use their Council provided computers for official business activities and those related to other public bodies or organisations on which they are the Council's representative or nominee, e.g. Housing Trust, Parish Council.*

**Members should not use the ICT facilities improperly for political purposes such as the promotion of a political party, a candidate or group of candidates in an election or in connection with a party political campaign.**

*Personal use is allowed providing the ICT security policies are adhered to. Members must 'log out' of systems fully or lock the computer when leaving a workstation unattended.*

*All information and files created, received, stored or sent while on Council business or using Council facilities form part of the Council's corporate records and remain property of the Council.*

*All corporate laptops must be encrypted. This should be arranged via the ICT Service Desk.*

*Only corporate encrypted memory sticks must be used.*

*Always ensure that equipment and media are powered off when left unattended and preferably locked away.*

*Good security measures should be used to protect a laptop i.e. not left unattended when in use or when in sleep or standby saving states. The laptop must be kept in a secure location (i.e. out of sight) when not in use and not be an easy target for thieves.*

*Ensure that only equipment belonging to the Council is connected to a Council PC or the network. [Emphasis Added.]*

#### **3.2 The Council's Internet**

*The Council's Internet and email service may not be used for transmitting, accessing, retrieving or storing any communications of a discriminatory or harassing nature or materials that are racist, offensive, obscene, pornographic, sexually explicit, or used for the purposes of gambling.*

[Extract only.]

- 4.7 In the Code of Practice the following specific direction on using non-Council equipment to access systems is provided:

### **4 Guidance when using own equipment**

*Non Council equipment or privately owned equipment should only access systems through ICT approved remote access solutions.*

*Members must 'log out' of systems fully or lock the computer when leaving a workstation unattended.*

*All information and files created, received, stored or sent while on Council business or using Council facilities form part of the Council's corporate records and remain property of the Council.*

*Members should clearly state in any email whether it is being sent on official Council business.*

*The content of every email sent on official Council business must not be such that it brings the Council into disrepute. Emails whether including text, audio and/or images must not contain derogatory statements, potentially libellous or defamatory comments or anything likely to cause offence, to others either inside or outside the Council. Note that gossip, hoaxes, or jokes fall within this category.*

*The Internet is an insecure medium, confidential or sensitive information should not be sent by personal email.*

*Members are reminded that the Council's indemnity and insurance arrangements are limited to official business.*

- 4.8 The Code of Practice thus mirrors the Code of Conduct in prohibiting using the Council's ICT facilities 'improperly for political purposes.' But it puts some flesh on the bones of this restriction by giving as examples of improper use 'the promotion of a political party, a candidate or group of candidates in an election or in connection with a party political campaign.'
- 4.9 Neither the Code of Conduct nor the Code of practice provide guidance as to when use of Council resources for political purposes might not be 'improper.' However, as sending an email on the Council network has no identifiable cost to the public purse, there may be circumstances where an email about party political matters is harmless and not improper. An example might be an email by a Group Leader or Whip to fellow Group Members to change the time of a group meeting; or similarly to an officer to change the period booked for use of a meeting room by that Group.
- 4.10 Factors which may make it more likely that a 'political' email is acceptable include the following:
- The sender and recipient/s are both/all Councillors belonging to the same political group;
  - The recipient is not a member of the public;
  - The content of the email is administrative in nature;
  - The email does not contain any politically controversial material;
  - The email does not criticise other people, and/or another political party.
- 4.11 Factors which may make it more likely that a 'political' email is unacceptable (i.e. 'improper') include the following:
- The recipient is not another Councillor belonging to the same political group;
  - The recipient is a member of the public;
  - The content of the email is not purely administrative in nature;

- The email contain politically controversial material;
- The email criticises other people and/or another political party.

4.12 It is not possible to provide definitive guidance covering every possible set of facts. However, if a Member is unsure whether sending an email on the Council's system might be 'improper' they should seek advice from the Monitoring Officer. In general, the somewhat trite phrase 'if in doubt, don't' might be wise advice.

## **5. Wards Affected and Local Ward Members**

5.1. None

## **6. Implications of Recommendation**

### **6.1. Policy Implications**

6.1.1. None

### **6.2. Legal Implications**

6.2.1. The Council is required under section 27 of the Localism Act 2011 to promote and maintain high standards of conduct by members and co-opted members of the authority. As part of this duty the Council must 'adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.'

### **6.3. Financial Implications**

6.3.1. None

### **6.4. Human Resources Implications**

6.4.1. None

### **6.5. Equality Implications**

6.5.1. None

### **6.6. Rural Community Implications**

6.6.1. None

### **6.7. Public Health Implications**

6.7.1. None

## **7. Risk Management**

- 7.1. Providing practical guidance on the interpretation of the Code of Conduct will make it less likely that Members will be the subject of complaints from the public.

## **8. Background Papers**

- 8.1. The Members Code of Conduct and ICT Code of Practice for Members.

## **9.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report author:

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